

Missouri Clean Water Commission Meeting
Department of Natural Resources
Lewis and Clark State Office Building
LaCharrette/Nightingale Creek Conference Rooms
1101 Riverside Drive
Jefferson City, Missouri

July 13, 2011

Maher Brothers, Inc.
Ralls County, MO-G010015

Background: Maher Brothers, Inc. owns and operates a concentrated animal feeding operation in Monroe City, Missouri. Maher Brothers is a Class IC swine operation with four (4) production buildings designed to serve 3,840 finishing hogs. The farm is located in the SE ¼, NW ¼, Section 5, T.56N, R. 6W in Ralls County and operates pursuant to Missouri State Operating Permit (MSOP) number MO-G010015. Animal waste from the four (4) production buildings is contained in a single-cell anaerobic lagoon. Process waste is land applied to agricultural fields.

Since April 21, 2009, the Department has conducted two (2) routine compliance inspections at the facility, and observed that Maher Brothers, Inc. had failed to maintain land application records and submit annual reports to the Department.

Issue: Between May 13, 2009, and January 14, 2010, the Department sent one (1) Letter of Warning and one (1) Notice of Violation to Maher Brothers, Inc. for failing to maintain land application records and failing to submit annual reports to the Department. Since August 16, 2010, Department staff have talked on the phone with Mr. Greg Maher on numerous occasions and sent five (5) letters to Maher Brothers, Inc. offering to resolve the violations through an out of court Settlement Agreement. To date, the Department has not received the missing reports and has not been able to reach an agreement with Maher Brothers, Inc. In addition, Maher Brothers, Inc. failed to submit an application to renew MSOP number MO-G010015, which expired on February 23, 2011.

Recommended Action: The Water Protection Program recommends that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief.

Suggested Motion Language: "I move that the Commission refer this matter to the Attorney General's Office for appropriate legal action in order to compel compliance, pursue a civil penalty, and/or seek any other appropriate form of relief."

Attachments: Case Summary Information

MISSOURI DEPARTMENT OF NATURAL RESOURCES

Case Summary Information

Case Name: Maher Brothers, Inc.

Facility name(s) – List all current names of responsible parties (owner/operator) for actions at this site):

Owners/operators:

Greg Maher

Tom Maher

Facility address, including county, and contact information:

Greg and Tom Maher

Mahe Brothers Inc.

26409 Monroe Road 583

Monroe City, MO 63456

Ralls County

Program(s): WPP

Program Contact(s)/Regional Contact(s), with phone numbers:

Corinne Rosania, enforcement case manager, (573) 751-6725

Darrick Steen, CAFO permitting, (573) 751-1403

Darryl McCullough, NERO inspector, (660) 385-8071

Description of Facility and Situation:

Mahe Brothers Inc. owns and operates a concentrated animal feeding operation (CAFO) in Monroe City, Missouri. Mahe Brothers is a Class IC swine operation with four (4) production buildings designed to serve 3,840 finishing hogs. The farm is located in the SE ¼, NW ¼, Section 5, T.56N, R. 6W in Ralls County and operates pursuant to Missouri State Operating Permit (MSOP) number MO-G010015. Animal waste from the four (4) production buildings is contained in a single-cell anaerobic lagoon. Process waste is land applied to agricultural fields.

On April 21 and December 15, 2009, Department staff conducted routine compliance inspections at the facility, and observed that Mahe Brothers had failed to maintain land application records and submit annual reports to the Department.

Between May 13, 2009, and January 14, 2010 the Department issued one (1) Letter of Warning (LOW) and one (1) Notice of Violation (NOV) to Mahe Brothers for violations observed during the above inspections. Transmittal letters for the LOW and NOV requested that Mahe Brothers submit the missing reports to the Department.

Since August 16, 2010, the Department's Water Protection Program, Compliance and Enforcement Section has talked on the phone with Mr. Greg Maher on numerous occasions and sent five (5) letters to Mahe Brothers offering to resolve the violations through an out of court

Settlement Agreement. To date, the Department has not been able to reach an agreement with Maher Brothers.

Responsible Party(s) (specify owner, operator, other [etc.]) **and contact information if different from above:** same as above

Law(s), Regulation(s) and Permit Conditions Violated: For each violation note starting some time before { } date and ending sometime before { }, or note “continuing.”

1. Failure to submit Annual Reports for the years 2005 through 2010, as required in Part “A” of Missouri State Operating Permit (MSOP) number MO-G010015, in violation of Section 644.076.1, RSMO, and 10 CSR 20-7.015(9)(A)1.
2. Failure to maintain records of land application period, amount land applied, application area, application rate, rainfall, and lagoon levels, for the years 2005 through 2009, as required in Part “A” of the MSOP number MO-G010015, in violation of Section 644.076.1, RSMO, and 10 CSR 20-7.015(9)(A)1.
3. Since August 27, 2010, failure to apply for renewal of MSOP at least one hundred and eighty (180) days before expiration of MSOP number MO-G010015, in violation of Sections 644.051.10 and 644.076.1, RSMo, and 10 CSR 20-6.010(5)(C).

Relief Requested:

Civil action for compliance and penalties (if injunction requested, please provide proposed compliance schedule)

Permit(s) Involved, including type and permit number:

MO-G010015

Other Program Involvement (if applicable): n/a

Other Agency Involvement (if applicable): n/a

Most Recent Significant Action by Department or Responsible Party: n/a

Penalty Estimate: \$1,500

Other Significant Aspects of the Case: n/a

CONTACT INFORMATION:

- **Department Staff – inspectors, other field staff, case managers and others involved in developing the referral. Name, position, e-mail address and phone number:**

Corinne Rosania, enforcement case manager, (573) 751-6725, corinne.rosania@dnr.mo.gov
Darrick Steen, CAFO permitting, (573) 751-1403, darrick.steen@dnr.mo.gov

Darryl McCullough, NERO inspector, (660) 385-8071, darryl.mccullough@dnr.mo.gov

- **Facility Owner(s) – for all defendants, include name, title, physical and mailing addresses and telephone numbers:**

Greg and Tom Maher
Maher Brothers Inc.
26409 Monroe Road 583
Monroe City, MO 63456
(573) 735-3581

- **Facility Operator(s):** n/a
- **Others (e.g., employees, neighbors, first responders or staff of other state, local or federal agencies):** n/a

Attachments:

- Permit and permit application
- NOVs and LOWs
- Documentation of any site visits, including Environmental Assistance Visits
- Reports of inspections within last five years
- Penalty and penalty calculation
- All correspondence between Department and defendant
- All emails and phone logs
- Secretary of State information documenting correct name of corporation, form of corporation or fictitious name registration, including information regarding registered agent
- Documentation of any Settlement Negotiations or In-Person Meetings
- Map of the Site

